

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAMON LAMAR WARD,

Defendant-Appellant.

UNPUBLISHED

September 17, 1999

No. 184517

Recorder's Court

LC No. 94-004942

AFTER REMAND

Before: Markman, P.J., and McDonald and Cavanagh, JJ.

PER CURIAM.

This case is before this Court for a second time. Following a jury trial, defendant was convicted of first-degree felony murder, MCL 750.316(1)(b); MSA 28.548(1)(b), second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant to life imprisonment for the first-degree murder conviction, forty to sixty years' imprisonment for the second-degree murder conviction, and two years' imprisonment for the felony-firearm conviction. Defendant appealed as of right, raising several issues, including the issue whether his statement to the police should have been suppressed as the product of an arrest unsupported by probable cause. We found the record on this issue was not developed enough to allow this Court to determine whether the police had probable cause to support defendant's arrest. Accordingly, we remanded this case to the trial court to supplement the record on the issue whether defendant's arrest was illegal. After remand, we affirm the trial court's finding that defendant's arrest was supported by probable cause and the trial court's admission of defendant's confession to the crimes.

We now reconsider the issue whether defendant's statement to the police should have been suppressed. A confession that results from an illegal arrest is inadmissible. *People v Richardson*, 204 Mich App 71, 78; 514 NW2d 503 (1994). A person may be arrested without a warrant if the arresting officer possesses information demonstrating probable cause to believe that an offense has occurred and that the person being arrested committed it. MCL 764.15; MSA 28.874. Probable cause to arrest exists if the facts and circumstances within an officer's knowledge at the time of the

arrest and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe the suspected person has committed a felony. *People v Champion*, 452 Mich 92, 115; 549 NW2d 849 (1996); *Richardson*, *supra* at 78.

While the prosecution did not utilize the evidentiary hearing to fully develop the record on this issue, we believe we have gleaned enough information from the preliminary examination transcript, the trial transcripts, and the hearing transcripts in order to determine what information the police had at the time of defendant's arrest. Monica Childs was the officer that ordered the arrest of defendant. She testified that the arrest of defendant was based on the statement of defendant's cousin, Jimmy Staniel,¹ a.k.a. Jimmie Lee Tate. At the time Staniel made his statement, he was a suspect in the murders and was apparently under arrest for carrying a concealed weapon. Childs testified during the remand hearing that Staniel told her that when he asked defendant whether he killed the women, defendant replied "Yeah, I took care of that."² Childs also testified at the remand hearing that Staniel stated that defendant carried a .380 gun. Although Childs did not recall whether the police were aware at the time that the victims had been shot with a .380, our review of the trial transcripts in this case reveals that the police found two .380 bullet casings at the scene of the crime. Childs did not give any other details about Staniel's statement. However, Staniel testified at the remand hearing that he told Childs that defendant had threatened to kill or harm one of the victims because she owed him money for drugs and because he suspected that she stole one of his guns.³

In addition, our review of the trial transcript reveals that Lenora Butchee, a.k.a. Lenora Allen, a.k.a. Lee, also made a statement to the police before defendant's arrest.⁴ Butchee lived with one of the victims, defendant, and defendant's girlfriend at the time of the murder. Butchee described an incident that occurred about a month before the murders, where defendant accused one of the victims, Joan, of stealing one of his guns. At the time defendant confronted Joan, he had a gun in his hand.

We acknowledge that Childs did not specifically testify that she was aware of Butchee's statement or that the .380 bullet casings were found at the scene when asked what facts and circumstances led her to order the arrest defendant. In fact Childs characterized defendant's arrest as one made for investigative purposes, and indicated that several others had been similarly arrested during the investigation. However, we recognize that this terminology used by Childs is not dispositive of whether the police had probable cause to arrest defendant. *People v Cipriano*, 431 Mich 315, 342; 429 NW2d 781 (1988). Moreover, at trial, Childs testified that she was familiar with the statements taken in the case and was privy to all of the information relevant to the case. Considering all of these facts and circumstances, we find there was probable cause to support defendant's arrest. *Champion*, *supra* 115; *Richardson*, *supra* at 78. However, we caution the prosecution and the trial court that the manner in which this issue was handled in this case did not reflect the seriousness of the matter. This Court's review would have been facilitated if the prosecution had better prepared its witness for the remand hearing⁵ and if the prosecution

had submitted a brief after the remand hearing detailing the information known to the police at the time of the arrest.⁶

Affirmed.

/s/ Stephen J. Markman

/s/ Gary R. McDonald

/s/ Mark J. Cavanagh

¹ The spelling of defendant's cousin's name varies throughout the record, sometimes it appears as Jimmy Stancil.

² At the first hearing on this issue, Childs did not indicate what Stanciel told her, instead Childs stated that defendant's "name came up" and that Stancil "named his cousin [defendant] as the person who did the shooting."

³ Stanciel also testified that in another statement to Childs he said that defendant murdered the women because they had an SSI check worth \$8,000. However, it appears this statement was made after defendant's arrest. Stanciel recanted all statements implicating defendant at trial and at the remand hearing.

⁴ At trial, Butchee testified that she made a statement to police on February 3, 1994 and that the substance of her statement was essentially the same as her testimony at trial.

⁵ Childs several times testified that she did not recall the events of the investigation because of the length of time that had elapsed between the investigation and the date of the hearing.

⁶ In the order granting defendant's motion to file a supplemental brief after remand, we allowed the prosecution fourteen days to file a responsive brief. *People v Ward*, unpublished order of the Court of Appeals, entered June 4, 1999 (Docket No. 184517). However, the prosecution never filed a brief.